



## Report to Cabinet

**Date:** 13 October 2020

**Title:** **Aylesbury Garden Town Housing Infrastructure Fund Contract, and establishment of a HIF Investment Board**

**Relevant councillor(s):** Cllr Martin Tett, Leader

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**Ward(s) affected:** Aston Clinton and Bierton ward; Wendover, Halton and Stoke Mandeville ward; Stone and Waddesdon; Aylesbury South-West ward; Aylesbury South East ward

### Recommendations:

- 1) Cabinet is asked to delegate authority to approve the Housing Infrastructure Fund (HIF) Aylesbury Garden Town (AGT) contract to the Corporate Director for Planning Growth and Sustainability (PG&S), and the Section 151 officer (jointly), in consultation with the Leader.
- 2) Cabinet is asked to note the key risks to the Council in agreeing to the contract with Homes England.
- 3) Cabinet is asked to agree to the establishment of a new HIF Investment Board (a Member led Board to oversee the HIF Programme), including Aylesbury Garden Town HIF, Princes Risborough HIF, Abbey Barn Lane HIF and A355 Beaconsfield Relief Road HIF. Membership will consist of The Leader, the Cabinet Member Resources, the Cabinet Member Transport, the Cabinet Member Town Centre Regeneration, and the Cabinet Member Education and Skills. Its role will be to monitor progress, recommend changes in funding allocations between projects and consider the re-allocation of the HIF recycling pot.

## **1. Executive summary**

1.1 This paper identifies the key contractual obligations and risks for the Council in entering into the Aylesbury Garden Town Housing Infrastructure Fund agreement with Homes England and seeks delegated authority for the Council to enter into the contract. The contract is a long-term commitment for both parties and ensures that the Authority is seen as both a facilitator and deliverer of new infrastructure and homes in Aylesbury. The report sets out a proposal for Member oversight of the HIF Programme. The timescales provided by Homes England to conclude the negotiations have shortened to the end of September to ensure the funding is secured by the end of October 2020.

## **2. Content of report**

2.1. The Council has provisionally been awarded £172,323,426 by Homes England to enable the building of nearly 10,000 new homes in Aylesbury through the delivery of specific key infrastructure projects including roads and schools, subject to entering into the Grant Determination Agreement (contract) and meeting the terms thereof. The majority of the funding is to provide infrastructure ahead of the relevant s106 or other income receipt.

2.2. The draft contract between Homes England and Buckinghamshire Council covers a wide range of requirements. It sets out the programme for infrastructure delivery, the key milestones, how the Council will achieve control of the land to deliver the infrastructure, anticipated cash flow and a housing delivery trajectory stretching to 2035. The document has standard clauses and there is little room for negotiation in the requirements of the funding. However, there has been more negotiation available in the discussions relating to the conditions of contract specific to Aylesbury, and officers have been pursuing adjustments to ensure the programme can be more easily and flexibly delivered. For example, the Authority can now report quarterly, instead of monthly.

2.3. The contract with Homes England commits the Council to deliver a programme of infrastructure by end of March 2024, to enable the delivery of 1046 homes by end of March 2024, and a further 8768 homes by end of March 2035. The Authority will therefore be in contract with Homes England for a minimum of 15 years.

2.4. The contract needs to be signed to enable drawdown of current and historic expenditure related to relevant projects.

2.5. Under the contract terms the Aylesbury Garden Town HIF Programme will need regular reporting to Homes England. In order to provide the required information, there needs to be dedicated, specific, cross-organisational reporting of progress, expenditure and income. This will be carried out by a new team with this specific task to co-ordinate the programme and with support from Finance and Planning Services in particular.


### 3. Contract conditions and terms

3.1. The Cabinet's attention is drawn to some key parts of the contract:

- a) Project expenditure is only until March 2024. Some projects will need to demonstrate good progress to ensure that this deadline is met, that funding is not lost, and housing delivery is enabled.
- b) The authority requires the agreement of Homes England to reassign funding between the projects.
- c) The authority is required to report relevant housing outputs until 2035 (or beyond)
- d) The authority is expected to recoup approximately a significant proportion of the funding award (from s106 and other mechanisms) until 2035 (or beyond). Homes England will be looking for the Authority to (wherever possible) secure more than this, if additional housing sites are approved.
- e) The creation of a recovery and recycling strategy states how the Authority will look to recover the funding (from section 106, electricity grid connection charges, and land assembly), and how the "recycling fund" will be managed and used. *"Any monies recovered under the Recovery Provisions shall be retained and used by the Grant Recipient for unlocking housing delivery in the Local Authority area"*. It should be noted that Homes England has to agree that the allocation of funding meets the conditions of the contract.
- f) There is a need to provide agreed governance arrangements for the HIF programme. There is no current regular Member forum (below Cabinet) to manage the movement of funds within the HIF programme as the projects currently span both the Highways Board and the Property Board. The considerations of this are detailed below.

### 4. Governance arrangements



- 4.1. As stated in section 3, the governance arrangements of the programme are yet to be established and need to be articulated within the final contract.
- 4.2. Currently, the Council's Capital and Investment Strategy sets out the existing Project Management governance arrangements, which operate through advisory Boards (Highways, Property and ICT). It is proposed that a HIF Investment Board is established as an additional advisory Board. [If members wanted establish the Board as a decision making body, then this would need to be considered as part of the Constitutional Review].
- 4.3. Project Officers will continue to engage with local members through the development and delivery of projects. However, there is currently no Member forum beneath Cabinet where decisions could be made across the HIF programme under current delegation. For example, where there is a saving in one project that could rapidly be used elsewhere, or where other funding becomes available allow for some potential reallocation of funds within the existing projects.
- 4.4. Officers have consulted with the Head of Corporate Finance and put forward the following interim proposal:
- All projects will need to work in accordance with the Authority's Capital Approval Processes.
  - All projects with HIF funding that are seeking approval to proceed will first need to present to the Planning Growth & Sustainability Management Board. The HIF Programme Manager will need to put forward the implications for the HIF programme at this time.
  - Approval can then be sought from the HIF Investment Board.
  - It will then be for the Service Director, and Project Team to manage the project in accordance with the delegations.
  - Where variations in HIF funding allocation, scope or timing are being sought, or use of the recycling fund, then projects will need to be considered by the new HIF Investment Board, chaired by the Leader (as HIF falls within the Strategic Infrastructure portfolio). Given the cross cutting nature of the programme, it is proposed that the following members are also in attendance: Cabinet Members for Resources, Transport, Town Centre Regeneration and Education and Skills. The new Board will decide on the implications for the full HIF programme e.g. availability of HIF finances.
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- If there is to be any reallocation of funding then the opinion of Homes England will be sought to inform the HIF Investment Board and then formalised by a Key Decision.

4.5. Matters will require attention on the programme as soon as January 2021 when it is likely that adjustment will be needed across project allocations.

4.6. As part of the Capital Approvals review, consideration will be given to how the HIF Programme Investment Board, should operate with the Capital Investment Boards (Highways Board and Property Board).

4.7. Other options considered for HIF governance purposes were:

- a) Cabinet is used as the Member led Programme Management Board for any movement of funding across portfolios once projects have been approved.
- b) Corporate Capital and Investment Board is used as the Member led Programme Management Board for any movement of funding across portfolios once projects have been approved. The board currently meets quarterly and would require ad hoc meetings to resolve emerging issues.

4.8. Project and Programme progress will also be reported to Corporate Capital Investment Board on a quarterly basis, and to Cabinet as part of standard financial reporting.

## **5. Financial implications**

5.1. Corporate teams, and Planning Growth & Sustainability Finance teams have been kept informed of HIF developments and they are part of the programme team. The HIF funded schemes are an essential component of the Council's Capital and Investment Strategy. We will be receiving HIF funding during the current financial year.

5.2. The Council will have secured a substantial capital investment to allow significant infrastructure projects to proceed. It meets financial shortfalls in existing projects, and accelerates other projects.

5.3. The funding will enable housing delivery both in the immediate future, and longer term with the creation of a potential 'recycling fund'. Current forecast is that the recouped funding will be approximately £1m by 2022, and by 2024 could be £10m.

5.4. Medium term housing market vulnerability may delay expected (re)payments.

- 5.5. The Council has to meet project cost overruns but has the ability to seek funding from other sources prior to meeting any extra cost. Project and programme contingency have also been identified (programme contingency can only be used with the agreement of Homes England, but they have been very positive in this regard).
- 5.6. Funds will be released by Homes England in arrears, after expenditure, with claims being submitted by the Council on a quarterly basis. Relevant conditions must be met prior to the release. Where we anticipate a higher level of expenditure, then Homes England will allow for funding to be drawn down either ahead of need, or on a monthly basis.
- 5.7. The current annual level of expenditure is indicative until project costs have been refined. It is anticipated that several projects will have underspends against their awards. These can be re-applied across the programme with agreement from Homes England.
- 5.8. It should be noted that the contract with Homes England requires that the Authority should look to recover the funding through s106 payments or other mechanisms. The Recovery and Recycling strategy is being agreed with the finance team that details the level of recovered s106 and that which we may look to recover in the future.
- 5.9. All recovered funding can be re-used to unlock and facilitate further housing sites in Buckinghamshire, in line with the HIF contract (and in agreement with Homes England). The HIF funding is primarily forward funding of section 106, and this will be gradually recovered, primarily over the period 2025-2035. The projects which this funding will then be used for will be identified over the coming years in consultation with Members.

## 6. Legal implications

- 6.1. The acceleration of the contract process due to the forthcoming CSR has meant that the negotiations regarding the final wording of the contract are yet to be completed. It is therefore not possible to present the final agreed document to Cabinet for formal sign off, and so it is **recommended to Cabinet that the approval of the HIF contract be jointly delegated to the Corporate Director for PG&S, and the Section 151 officer. This will only be after consultation with the Leader.**
- 6.2. The Legal team have been commissioned to scrutinise the initial Heads of Terms and conditions that have been proposed by Homes England. There is ongoing input

from Legal Services throughout the grant condition consent process as well as on individual schemes. The cross cutting nature of the programme has required input from planning, property, transport and contract specialists.

6.3. State aid analysis has been commissioned and indicative discussions have indicated that projects where infrastructure is being provided are compliant. The electricity grid re-enforcement project will require further analysis as procurement options and negotiation emerge. External solicitors have been retained to provide that analysis appropriately to conform with the investment requirements of the authority and the HIF contract.

## **7. Corporate implications**

The Corporate implications of the HIF are assessed to be:

### **Property**

7.1. The corporate implications for Property are considered in the confidential appendix.

### **HR**

7.2. A Programme Manager for the HIF programme is in the process of being recruited, reporting to the Service Director for Strategic Transport and Infrastructure. Two further programme support posts will be recruited. These will report to the programme manager. Other recruitment is taking place in appropriate project teams and capitalised against delivery costs. Service Directors are determining where existing delivery teams have capacity or if new recruitment has to be requested via the Corporate Director, meeting recruitment requirements.

### **Climate change**

7.3. The infrastructure requirements will conform with the necessary national and council standards.

### **Sustainability**

7.4. The project teams are working to ensure that the projects are 'future proofed' e.g. the Kingsbrook Secondary school is designed to allow up to a 10 form entry provision (although will open at only 6 form entry) as this will make significant long term savings. Equally, the road and energy projects will look to provide both sufficient capacity for current and future development. These major projects will require Environmental Statements as part of the planning process and these will set out what environmental mitigation measures each of the projects will need to provide. The projects will also need to meet the Council's bio-diversity net gain requirements.

## **Equality**

7.5. Projects will be procured using the Council's framework structures, ensuring that Equality Impact Assessments are carried out appropriately.

## **8. Consultation and communication**

8.1. Project Officers will continue to engage with local members through the appropriate stages of each project's development and delivery.

8.2. Council Members of Aylesbury Garden Town Board were updated on progress in July 2020.

8.3. A presentation to all the Aylesbury members will take place in November / December updating them on project and programme progress. Follow up presentations can also be held if Members are unable to attend.

## **9. Key Programme Risks**

9.1. Many projects are in the early stages of design, and have many interdependent factors, therefore costs and delivery timeframes cannot be certain.

9.2. Many projects rely on delivery partners to help deliver the projects, for example, developers progressing outline applications, HS2 progressing its works, and utility providers. Failure of the partners will also jeopardise time limited funding.

## **10. Next steps and review**

10.1. Formal contract conclusion is due to take place on 20<sup>th</sup> October with final legally signed contracts to be in place for 30<sup>th</sup> October 2020.

10.2. Cabinet will be informed when the contract has been entered in to. First formal reporting to Homes England will be due at the end of January. An update report will therefore be reported to the HIF Investment Board (as per recommendations in this paper) in January 2021.

10.3. Full Council will be asked to approve the proposal to establish a HIF Programme Board, to sit alongside the Highways, Property and ICT Boards.

## **11. Background papers**

11.1. None. The legal contract is not included as this is still undergoing legal review and negotiation as it is commercially confidential.

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